



## Memorandum of Agreement

### Broadband WestNGN Project Coordination

THIS AGREEMENT, made \_\_\_\_\_ by and between Land of Sky Regional Council, hereinafter called the "Council", and the City of Asheville, NC, hereinafter called the "City."

### WITNESSETH

WHEREAS, the Council operates to provide planning and technical assistance to local governments and for region-wide projects in Region B as empowered by the North Carolina General Statutes and by resolution passed by the Planning Agency on April 17, 1972.; and

WHEREAS, the City requests that the Council provide such technical assistance, as detailed in the following Scope of Work; and

NOW, THEREFORE, the Council and the City mutually agree to the following:

#### 1. Employment and Scope of Work

The City hereby agrees to engage the Council and the Council agrees to perform in a satisfactory and proper manner the work below:

- A. Project Management for expansion of the West - Next Generation Network (WestNGN)
  - a. Convene the steering committee
  - b. Conduct data analysis for the region
  - c. Compile data and information for the RFP
  - d. Draft and write the RFP
  - e. Gather the community sections and compile them into the RFP format
  - f. Facilitate communications with the Steering Committee and supporters
  - g. Administer the RFP release and response process

#### 2. Length of Contract

The Council shall ensure that all services required herein shall be provided during the period beginning on June 1, 2016 and ending June 30, 2017.

3. **Assignability**

The Council shall not assign any interest in this MOA, and shall not transfer any interest in the same whether by assignment or substitution, without the prior written consent of the City or unless specifically contained in the Scope of Services attached hereto.

4. **Compensation and Method of Payment**

The City will pay the Council for the services provided hereunder as stipulated in the Scope of Work attached hereto. Inclusive in this amount are associated travel costs and expenses directly related to the project. The total cost of this agreement is \$11,893.

Payment will be made in a lump sum within three months from the start of the contract.

5. **Termination of MOA for Cause**

If, for any cause, the Council shall fail to fulfill in a timely and proper manner its obligations under this MOA, or if the Council shall violate any of the covenants, agreements, or stipulations of this MOA, the City shall thereupon have the right to terminate this MOA by giving written notice to the Council of such termination thirty days before such effective date. During the thirty-day notification period, the Council shall have the opportunity to remedy any failures or violations to avoid termination of the MOA. If termination occurs, the Council shall be entitled to receive just and equitable compensation for all satisfactory work completed.

6. **Changes**

The City may request changes in the Scope of Services to be performed by the Council hereunder. Such changes which are mutually agreed upon by and between the City and Council, shall be incorporated as written amendments to this MOA.

7. **Records**

The Council shall maintain financial records pertaining to this MOA for three years after final settlement or until cleared by audit.

8. **Access to Records**

The Council shall have access to appropriate records on file at the City which are necessary for Council staff to fulfill the terms of this MOA.

9. **Interest of Contractor**

The Council covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOA. The Council further covenants that in the performance of this MOA no person having any such interest shall knowingly be employed.

10. **Findings Confidential**

Any reports, information, data, etc., given to or prepared or assembled by the Council under this MOA which the City requests to be kept confidential shall not be made available to any individual or organization other than the City, except as required by law.

11. **Complete Agreement**

This MOA contains the complete agreement of the Parties and may not be modified in any respect except by written amendment hereto.

12. **Applicable Laws**

The Parties agree that this document is to be governed, construed, and enforced in accordance with all of the laws of the State of North Carolina.

13. **Indemnification**

- a. To the extent allowed by law, the Council agrees to indemnify, hold harmless and defend the City as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of the Council or its employees or agents in performing or failing to perform any of its obligations under this Agreement.
- b. To the extent allowed by law, the City agrees to indemnify, hold harmless and defend the Council as well as its directors, officers, employees and agents against all claims for personal injury or property damage or both, including reasonable attorney's fees and the cost of defense resulting or alleged to result from any act or omission of The City or its employees or agents in performing or failing to perform any of its obligations under this Agreement.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written.

**City of Asheville**

**Land of Sky Regional Council**

By: \_\_\_\_\_

By: \_\_\_\_\_

Justin Hembree

Title: \_\_\_\_\_

Title: Executive Director

**Attachment A: Budget**

<b>WestNGN - Gigabit Broadband Project</b>						
	<b>Community</b>	<b>Population per US Census 2014</b>	<b>Flat Fee</b>	<b>Population %</b>	<b>Fee per Population</b>	<b>Total \$ per Local Government</b>
1	Asheville	87,882	\$ 4,000	72%	\$ 7,893	\$ <b>11,893</b>
2	Hendersonville	13,650	\$ 4,000	11%	\$ 1,226	\$ <b>5,226</b>
3	Waynesville	9,761	\$ 4,000	8%	\$ 877	\$ <b>4,877</b>
4	Fletcher	7,487	\$ 4,000	6%	\$ 672	\$ <b>4,672</b>
5	Biltmore Forest	1,422	\$ 4,000	1%	\$ 128	\$ <b>4,128</b>
6	Laurel Park	2,278	\$ 4,000	2%	\$ 205	\$ <b>4,205</b>
	<b>Totals</b>	122,480	\$ 24,000	100%	\$ 11,000	\$ <b>35,000</b>